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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/859,487	05/18/2001	Toshiharu Oishi	P107156-00067	4552

7590

05/21/2003

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EXAMINER

BERCK, KENNETH A

ART UNIT

PAPER NUMBER

2879

DATE MAILED: 05/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/859,487

Applicant(s)

OISHI ET AL.

Examiner

Ken A Berck

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Morita et al. (US 5,831,374).

Regarding claim 1, Morita discloses (fig 4) a PDP with a circuit board mounting a drive circuit, a chassis structure provided on the backside of the PDP for supporting the PDP and for mounting the circuit board, a first chassis member (221, 10) mounting the circuit board, a second chassis member (140) fixed on the backside of the PDP, a plurality of support portions (fins on 211) between the first and second chassis members for supporting the two chassis members and for forming a predetermined interval between the two chassis members.

Regarding claim 2, Morita discloses the second chassis member's surface fixed on the backside of the PDP is in a plain state, and is bonded on the backside of the PDP.

Regarding claim 3, Morita discloses the number of support portions located in central area is larger than that of support portions located in edge areas on the PDP.

Regarding claim 4, Morita discloses the plurality of support portions are projections formed on the first chassis member.

Regarding claim 5, Morita discloses a plurality of projections formed on the first chassis member resulting in a product that is not patentably different than the claimed invention. Applicant is claiming process step therein and therefore are of product-by-process nature. The courts have been holding for quite some time that: "--In spite of the fact that a product-by-process claim may recite only process limitations, it is the product which is covered by the claim and not the recited process steps-- (In re Hughes, 182 USPQ 106)--". Also --Patentability of a claim to a product does not rest merely on a difference in the method by which that product is made. Rather, it is the product itself which must be new and unobvious. (In re Pilkington, 162 USPQ 147)--." Accordingly, "--a rejection based on 35 U.S.C. section 102 or alternatively on 35 U.S.C. section 103 of the statute is eminently fair and acceptable." (In re Brown and Saffer, 173 USPQ 685 and 688). --The determination of the patentability of product-by-process claim is based on the product itself rather than on the process by which the product is made--. In re Thrope, 777 F.2d 695, 227 USPQ 964 (Fed. Cir. 1985). As such, no patentable weight is given to process steps recited in claim 5.

### ***Response to Arguments***

Applicant's arguments filed Apr 02, 2003, have been fully considered but they are not persuasive.

Applicant argues that Morita fails to disclose a plurality of support portions provided between the first and second chassis members, the support portions forming a predetermined interval in between and states, in Morita, although the joining portion can support the backside of the panel, the finned external heat sinking unit is attached only

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on the backside of the cabinet accommodating the panel and the joining portion. As a result, it is difficult to ensure a sufficient rigidity for the plasma display apparatus.

Applicant also points out the thin wall portions 22 (fig 7A) making it impossible for the structure of Morita to provide sufficient rigidity.

The Examiner points out (fig 4) a plurality of support portions (fins of 211) at a predetermined interval in between the chassis members (211 and 140) and (figs 5 and 10) with alternative embodiments with the chassis member 10 mounting a circuit board and the second chassis member mounted on the backside of the PDP and absence of the thin wall portions, which results in an increased total area for heat radiation and improved support strength.

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### Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ken A Berck whose telephone number is (703)305-7984. The examiner can normally be reached on Mon-Fri 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nimesh Patel can be reached on (703)305-4794. The fax phone numbers for the organization where this application or proceeding is assigned are (703)308-7382 for regular communications and (703)308-7382 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0956.

kab *ka*  
May 16, 2003

*VIP Patel*  
VIP PATEL  
PRIMARY EXAMINER